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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,336	04/20/2001	Francis M. Anton, Jr.	VB.HEREUR.PT2	1893
24943 7590 06/16/2009 INTELLECTUAL PROPERTY LAW GROUP LLP 12 SOUTH FIRST STREET SUITE 1205 SAN JOSE, CA 95113				
EXAMINER				
DAO, THUY CHAN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/839,336

Applicant(s)

ANTON, JR., FRANCIS M.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 04/24/09

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on April 13, 2009 has been entered.

2. Claims 1-10 and 12-24 have been examined.

Response to Amendments

3. In the instant amendment, claims 1, 9, 10, and 17 have been amended.

Claim Objection

4. Claims 1-10 and 12-24 are objected to because of minor informalities.

a) Claims inconsistently recite "device management software" and "software device management". The examiner respectfully requests the Applicants to amend the claims to recite - -device management software- - at all locations;

b) Claims inconsistently recite "communication network access device" and "device". The examiner respectfully requests the Applicants to amend the claims to recite - -communication network access device- - at all locations;

c) Claims inconsistently recite "communication network" and "network". The examiner respectfully requests the Applicants to amend the claims to recite - - communication network- - at all locations;

d) Claims recite "said network" without antecedent basis. The examiner respectfully requests the Applicants to amend the claims (as indicated in (c) above) and provide antecedent basis for - -said communication network- - at all locations; and

e) Claims recite "a wireless connection between a mobile user and a source network" and further merely recite "a network". The examiner respectfully requests the Applicants to amend claims to distinctly set forth the claimed invention. The examiner

treats the currently claimed limitation "a source network" as a wireless network, but "a network" (or "a communication network") as not necessarily a wireless network.

Appropriate correction is requested.

Response to Arguments

5. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections – 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,990,660 to Moshir et al. (art made of record, hereafter "Moshir").

Claim 9:

Moshir discloses *a method of maintaining software on a communication network access device, said method comprising:*

(a) *first storing a first device management software (e.g., FIG. 2 ,software patches)*

in a memory in said device (e.g., FIG. 2, Targets 202 and 208, Update Server 220, Update List 222);

(b) periodically checking availability of a second device management software (e.g., FIG. 4, col.4: 38-48, block 418, Check for new software update; col.13: 59-67)

by said device requesting and receiving a version code of said second device management software through said network (e.g., col.5: 10-19; col.13: 14-32) and

comparing a version of said second device management software against a version of said first device management software (e.g., col.13: 58-67; col.30: 52-63); and

(c) for the version of said second device management software that is a different version from said first software device management (e.g., col.16: 27-49; col.20: 10-28),

automatically loading the second device management software in said memory, immediately following said checking, through said network for replacing said first software such that the device is self-maintaining (e.g., col.4: 55-66; col.5: 54-64; col.11: 32-53).

Claim 10:

Moshir discloses a method as recited in claim 9 further comprising inputting upgrade data to a server from a computer, said data for installing and storing said second device management software in said server, said server in communication with said device (e.g., FIG. 2, Update List 222 includes new available patches, col.14: 59-67), through said network, and said server providing said version code of the stored second device management software to said device in response to receiving the request for said version code from said device (e.g., FIG. 5, Package Computer 567, Update Server 528, col.10: 52-61; col.13: 41-54).

Claim 12:

Moshir discloses a method as recited in claim 10 further comprising first authenticating an identity of said server to said device (e.g., col.6: 19-43; col.7: 46-67).

Claim 13:

Moshir discloses *a method as recited in claim 12 further comprising second authenticating an identity of said device to said server (e.g., col.3: 56-67; col.12: 41-61).*

Claim 14:

Moshir discloses *a method as recited in claim 10 further comprising automatically performing said checking and said loading at a predetermined time without manual maintenance from a user (e.g., col.19: 12-21; col.23: 12-25).*

Claim 15:

Moshir discloses *a method as recited in claim 14 further comprising stopping an acceptance of a new connection prior to said loading (col.10: 26-45; col.18: 4-31).*

Claim 16:

Moshir discloses *a method as recited in claim 9 further comprising automatically performing said loading at a predetermined time without manual maintenance from a user (e.g., col.19: 12-31; col.24: 36-57).*

Claim Rejections – 35 USC §103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,990,660 to Moshir et al. (art made of record, hereafter "Moshir") in view of US Patent No. 2003/0051236 A1 to Pace et al. (art made of record, hereafter "Pace").

Claim 1:

Moshir discloses a system for software maintenance of a network access device, said system comprising:

- (a) an access point device (e.g., FIG. 2, Update Server 220)
for making a connection between a mobile computer (e.g., Target Computer 202 and 208) and a communications network (e.g., Internet 214 and external Package Computer 230 and 234), said device including
 - (i) a memory of software containing first device management software for providing a device management function (e.g., Update List 222 and Memory 228); and
 - (ii) software loading apparatus for automatically loading second software through said network for replacing said first software (e.g., FIG. 3, Update Task List 300, Start Task 304), said device configured to request and
receive a version code of said second software through said network and directly begins loading (e.g., FIG. 5, Update Tasks, Discovery Agent 548, Installer 510)
upon checking that said first software requires replacement due to a comparison determining the first software contains code that is different from the second software (e.g., FIG. 4, Monitor 302, Check for New Software Update 418),
without manual maintenance by a user such that the access point device is self-maintaining (e.g., col.4: 55-66; col.5: 54-64; col.11: 32-53).

Moshir does not explicitly disclose an access point device for making a wireless connection between a mobile computer and a communications network.

However, in an analogous art, Pace further teaches an access point device for making a wireless connection between a mobile computer and a communications network (e.g., [0995]-[0006], server ITS2 as a wireless access point).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Pace's teaching into Moshir's teaching. One would have been motivated to do so to provide a wireless network in a close proximity to the wireless devices as suggested by Pace (e.g., [0995]-[0996]).

Claim 2:

Moshir discloses a system as recited in claim 1 further comprising a server including apparatus for receiving data input from a computer for installation and storing said second software for said loading by said software loading apparatus through said network (e.g., FIG. 2, Package Computer 230 as an external server, Update Server 220).

Claim 3:

Moshir discloses a system as recited in claim 2 wherein said device further includes version checker apparatus for checking a version of said second software against a version of said first software (e.g., col.8: 4-26; col.25: 5-67).

Claim 4:

Moshir discloses a system as recited in claim 3 further comprising first authentication apparatus for authenticating an identity of said server to said device (e.g., col.8: 46-67; col.16: 27-41).

Claim 5:

Moshir discloses a system as recited in claim 4 further comprising second authentication apparatus for authenticating an identity of said device to said server (e.g., col.6: 19-43; col.7: 46 – col.8: 4).

Claim 6:

Moshir discloses a system as recited in claim 3 further comprising automatic apparatus for automatically performing said checking and said loading at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Claim 7:

Moshir discloses a system as recited in claim 6 further comprising shut-down apparatus for stopping an acceptance of new connections prior to said loading (e.g., col.10: 7-25).

Claim 8:

Moshir discloses *a system as recited in claim 1 wherein said loading is performed automatically at a predetermined time* (e.g., col.23: 12-25; col.24: 36-59).

10. Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir in view of Pace and Hoff (art of record, US Patent No. 5,978,373).

Claim 16:

Claim 16, which recite(s) the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim(s), it also teaches all of the limitations of claim 16.

Neither Moshir nor Pace explicitly discloses *the mobile user is authorized through one or more embedded IDs generated into an embedded reserved field of a file*.

However, in an analogous art, Hoff further discloses *the mobile user is authorized through one or more embedded IDs generated into an embedded reserved field of a file* (e.g., FIG. 4b, Completed Template Info Sent → If Info Same As Registration, Associate PC MAC With OLS → ... → FIG. 5, last step: Establish Session With Default OLS, col.7: 16-58 and col.8: 24-34, emphasis added).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Hoff's teaching into Moshir and Pace's teaching. One would have been motivated to do so to provide network access authentication suitable for network users as suggested by Xu (e.g., col.2: 1-15 and 62-65) as well as provide secure transmission of data as suggested by Hoff (e.g., col.2: 52 – col.3: 17).

Claim 18:

Moshir discloses *a system as recited in claim 17 wherein said user authorization server apparatus includes*

(a) source network server apparatus including apparatus for receiving a request from said mobile user to access said communication network, and for determining if said mobile user is currently authorized to access the communication network, and for a currently authorized mobile user to allow said authorized mobile user said access, and for an unauthorized mobile user, not to forward said request (e.g., col.9: 29-52);

(b) redirection server apparatus for receiving from said source server said forwarded request by said unauthorized mobile user for communication network access, and for redirecting said request (e.g., col.7: 46 – col.8: 26); and

(c) user authentication server apparatus for receiving said unauthorized user's request from said redirection server, and for authorizing said unauthorized mobile user to access said communication network (e.g., col.6: 19-43); and

(d) gate keeper server apparatus for receiving an authorization from said authentication server and for informing said source network apparatus that said mobile user is to be allowed access to said communication network (e.g., col.7: 46 – col.8: 26; col.9: 29-52).

Claim 19:

Moshir discloses a system as recited in claim 17 wherein said access point device further includes version checker apparatus for checking a version of said second software against a version of said first software (e.g., col.13: 58 – col.14: 8).

Claim 20:

Moshir discloses a system as recited in claim 19 further comprising first authentication apparatus for authenticating an identity of said remote maintenance server to said access point device (e.g., col.6: 19-43).

Claim 21:

Moshir discloses a system as recited in claim 20 further comprising second authentication apparatus for authenticating an identity of said access point device to said remote maintenance server (e.g., col.7: 46 – col.8: 3; col.16: 27-42).

Claim 22:

Moshir discloses a system as recited in claim 19 further comprising apparatus for automatically performing said checking and said loading at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Claim 23:

Moshir discloses a system as recited in claim 22 further comprising shut-down apparatus for stopping an acceptance of new connections prior to said loading (e.g., col.10: 7-25).

Claim 24:

Moshir discloses a system as recited in claim 17 wherein said loading is performed automatically at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Conclusion

11. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thuy Dao/

Examiner, Art Unit 2192

/Tuan Q. Dam/

Supervisory Patent Examiner, Art Unit 2192